

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TIMMOTHY SCOTT SCHMIDT,)	CASE NO. 1:20-CV-02251
)	
Petitioner,)	JUDGE CHARLES ESQUE FLEMING
)	
vs.)	MAGISTRATE JUDGE
)	JENNIFER DOWDELL ARMSTRONG
WARDEN HAROLD MAY,)	
)	OPINION AND ORDER ADOPTING
Respondent.)	MAGISTRATE’S REPORT AND
)	RECOMMENDATION

On October 6, 2020, Petitioner Timmothy Scott Schmidt (“Petitioner”) filed a Petition for Writ of Habeas Corpus (“Petition”), pursuant to 28 U.S.C. § 2254. (ECF No. 1). On August 16, 2023, Magistrate Judge Jennifer Dowdell Armstrong filed a Report and Recommendation (“R&R”) recommending that the Court deny and dismiss the Petition. (ECF No. 8).

Thereafter, Petitioner’s counsel moved to withdraw from this case. (ECF No. 9). The Court held a status conference on August 30, 2023; at that time, the Court instructed Petitioner’s counsel to communicate with Petitioner about whether he intended to hire new counsel or proceed with his Petition pro se. (Aug. 30, 2023 Non-Document Order). On September 29, 2023, Petitioner’s counsel filed a motion for extension of time, informing the Court that Petitioner intended to proceed with his Petition pro se and requesting that Petitioner be given until December 1, 2023, to object to the R&R. (ECF No. 10). The Court granted that Motion on October 2, 2023, along with the Motion to Withdraw as Counsel. (ECF No. 11; Oct. 2, 2023 Non-Document Order).

The Order granting Petitioner until December 1, 2023, to object to the R&R was mailed to Petitioner the same day. (October 2, 2023 Non-Document Docket Entry).

Fed. R. Civ. P. 72(b)(2) provides that the parties may object to a Magistrate Judge's R&R within 14 days after service. The R&R also gave the parties notice of the 14-day time limit for filing objections. (ECF No. 8, PageID# 497–98). This Court gave Petitioner significantly longer—over 100 days—to object to the R&R due to his change in representation; as of the date of this Order, no objections have been filed.

Under the Federal Magistrates Act, a district court must conduct a *de novo* review of those portions of the R&R to which the parties have objected. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). Absent objection, a district court may adopt a R&R without further review. *See Peretz v. United States*, 501 U.S. 923, 939 (1991); *Thomas v. Arn*, 474 U.S. 140, 141-42 (1985).

Having received no objections, the Court **ADOPTS** Magistrate Judge Armstrong's R&R, incorporates it fully herein by reference, and **DENIES** and **DISMISSES** the Petition. The Court also **CERTIFIES**, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision cannot be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. Fed. R. App. P. 22(b); 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

Date: January 4, 2024



CHARLES ESQUE FLEMING
UNITED STATES DISTRICT JUDGE